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8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2010-4412

12 **MICHELLE TINA AZEVEDO,**
13 **aka MICHELLE TINA FAGUNDES**
14 **1405 Campbell Way**
Turlock, California 95382

A C C U S A T I O N

15 **Vocational Nurse License No. VN 186505**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

22 2. On or about November 17, 1998, the Board issued Vocational Nurse License Number
23 VN 186505 to Michelle Tina Azevedo, also known as Michelle Tina Fagundes ("Respondent").
24 Respondent's vocational nurse license expired on September 30, 2012.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that
27 the Board may discipline the holder of a vocational nurse license for any reason provided in
28 Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

1 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued or reinstated. Under Code
4 section 2892.1, the Board may renew an expired license at any time within four years after the
5 expiration.

6 5. Code section 2878 states, in pertinent part:

7 The Board may suspend or revoke a license issued under this chapter [the
8 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the
9 following:

10 (a) Unprofessional conduct . . .

11 6. Code section 2878.5 states, in pertinent part:

12 In addition to other acts constituting unprofessional conduct within the
13 meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional
14 conduct for a person licensed under this chapter to do any of the following:

15

16 (b) Use any controlled substance as defined in Division 10 of the Health
17 and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic
18 beverages, to an extent or in a manner dangerous or injurious to himself or herself,
19 any other person, or the public, or to the extent that the use impairs his or her ability
20 to conduct with safety to the public the practice authorized by his or her license . . .

21 **COST RECOVERY**

22 7. Code section 125.3 provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 **CAUSE FOR DISCIPLINE**

27 **(Use of Alcoholic Beverages to an Extent or in a Manner**

28 **Dangerous or Injurious to Oneself and Others)**

29 8. Respondent is subject to disciplinary action pursuant to Code section 2878,
30 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2878.5,

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subdivision (b), in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself and others, as set forth below:

a. On or about April 20, 2011, an officer with the Turlock Police Department was dispatched to a private residence regarding a verbal disturbance in progress. While en route to the call, Turlock Dispatch advised the officer that a battery had occurred and that Respondent had struck W.M. Upon arrival, the officer contacted W.M. and a witness outside of the residence. The officer determined upon interviewing W.M. and the witness that W.M. and Respondent were in a dating relationship and lived together. An argument had progressed throughout the day and escalated when Respondent came up behind W.M. and hit him on the back of his head with an open right hand. Respondent had been drinking prior to the incident. W.M. requested an Emergency Protective Order ("EPO") and the officer contacted Judge Ameral, who granted the EPO. Respondent was subsequently arrested for domestic battery.

b. On or about July 20, 2011, Respondent wrote a letter to the Board, stating that she had been drinking on April 20, 2011, and could not recall the details of the incident because she was "in a blackout". Respondent also stated that she had a problem with alcohol.

MATTERS IN AGGRAVATION

9. To determine the degree of discipline to be assessed against Respondent, if any, Complainant alleges as follows:

a. On or about January 24, 2011, a representative of the Board sent a letter to Respondent, notifying her that the Board had completed its review of her 2010 conviction for driving under the influence of alcohol. Respondent was advised that the Board would not pursue disciplinary action against her since she was in compliance with the terms of her probation (criminal probation) and had no subsequent convictions. The Board's representative warned Respondent that future substantiated reports that she had engaged in similar behavior or otherwise violated the laws or regulations governing her practice as a vocational nurse may result in disciplinary action against her license.

b. On or about April 8, 2011, the Board issued Citation No. CV-2010-1114 against Respondent for violating California Code of Regulations, title 16, section 2504.1 (failure to

1 respond to the Board's requests for criminal history information). The Board ordered Respondent
2 to pay an administrative penalty (fine) of \$250 within thirty (30) days after service of the citation.
3 Respondent has failed to contest the citation or pay the fine.

4 **PRAYER**


5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
7 issue a decision:

8 1. Revoking or suspending Vocational Nurse License Number VN 186505, issued to
9 Michelle Tina Azevedo, also known as Michelle Tina Fagundes;

10 2. Ordering Michelle Tina Azevedo, also known as Michelle Tina Fagundes, to pay the
11 Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 5/29/13


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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